

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CHEN CHONG SHU,)	
)	
Plaintiff,)	
)	Civil Action No. 03-409E
v.)	
)	Judge McLaughlin
UNITED STATES OF AMERICA,)	Magistrate Judge Baxter
)	
Defendant.)	(electronic filing)

**DEFENDANT’S RESPONSE TO PLAINTIFF’S PETITION FOR EXTENSION OF TIME
TO STAY LITIGATION PENDING RETENTION FOR [SIC] COUNSEL ASSISTANCE**

AND NOW, comes Defendant, the United States of America (hereinafter “Defendant”), by its attorneys, Mary Beth Buchanan, United States Attorney for the Western District of Pennsylvania, and Christy Criswell Wiegand, Assistant United States Attorney for said district, and respectfully responds to Plaintiff’s Petition for Extension of Time to Stay Litigation Pending Retention of Counsel Assistance:

PROCEDURAL HISTORY

1. Plaintiff, a federal inmate, brought this pro se medical malpractice and negligence action pursuant to the Federal Tort Claims Act, 28 U.S.C. § 2670, et seq. (hereinafter “FTCA”), on December 15, 2003. See Docket No. 1.
2. Discovery in this case has closed, and Plaintiff’s pretrial statement was scheduled to be due on or before December 16, 2005.

3. Plaintiff failed to file a pretrial statement, and on December 20, 2005, the Court issued an Order requiring Plaintiff to show cause before January 3, 2005 for his failure to file a pre-trial narrative statement.
4. Had Plaintiff filed his pretrial statement on or before December 16, 2005, Defendant's Motion for Summary Judgment or Pretrial Statement were scheduled to be due on or before January 10, 2006.
5. On December 20, 2005, Plaintiff filed a Notice of Change of Address, and Petition for Extension of Time to Stay Litigation Pending Retention For [sic] Counsel Assistance.
6. In his filing, Plaintiff indicates that he is now in the custody of the Department of Homeland Security, at the Clinton County Correctional Facility. Plaintiff requests that the Court stay this litigation pending "retention for counsel assistance." Plaintiff also states that he has contacted outside counsel to request assistance with his prosecution of this action, and that outside counsel is reviewing the matter. Plaintiff further requests that, should he be unsuccessful in retaining his own counsel, the court appoint counsel on his behalf.
7. Defendant has no objection to a stay of this litigation, including a stay of the filing of Defendant's pretrial statement and or motion for summary judgment, pending Plaintiff's current efforts to secure the assistance of outside counsel.
8. Defendant does, however, oppose Plaintiff's Motion to Appoint Counsel, as that motion is premature, given that Plaintiff is currently in the process of having his own outside counsel review this matter.¹

¹ Defendant respectfully requests an opportunity to fully brief the issue of appointment of counsel in the event that that issue becomes ripe for review, should Plaintiff be unsuccessful in obtaining his own counsel.

WHEREFORE, for the foregoing reasons, Defendant respectfully requests that the Court deny Plaintiff's Motion to Appoint Counsel. Defendant does not object, however, to the granting of Plaintiff's Motion to Stay Litigation for a reasonable period of time pending Plaintiff's efforts to secure the assistance of outside counsel.

Respectfully submitted,

MARY BETH BUCHANAN
United States Attorney

\s\ Christy Criswell Wiegand
CHRISTY CRISWELL WIEGAND
Assistant U.S. Attorney
Western District of PA
U.S. Post Office & Courthouse
700 Grant Street, Suite 400
Pittsburgh, PA 15219
(412) 644-3500

Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that I have served this date a copy of the within **DEFENDANT'S RESPONSE TO PLAINTIFF'S PETITION FOR EXTENSION OF TIME TO STAY LITIGATION PENDING RETENTION FOR [SIC] COUNSEL ASSISTANCE** by first-class United States mail, upon the following:

Chen Chong Shu
Reg. No. 05-2913
Clinton County Correctional Facility
P.O. Box 419
McElhattan PA 17748

\s\ Christy Criswell Wiegand
CHRISTY CRISWELL WIEGAND
Assistant U.S. Attorney

Dated: December 22, 2005